Political Science 3314
American Constitutional Law: Institutions

Dr. Tracy L. R. Lightcap
Office: Room 204, Callaway Academic Building
Office Hours: Monday and Wednesday 10:30 - 11:30 am or by appointment.

Required Readings
One book will be used in this course. It is:
Since we will be discussing current events that have relevance to the material being covered, it would help to read, at a minimum, either one of the Atlanta newspapers or one of the weekly newsmagazines. Reading the New York Times would be the best choice, of course. The examinations may reference current events, so try to keep up.

Course Objectives
This course is an examination of selected aspects of the development and application of the Constitution of the United States. At its conclusion students should have a basic understanding of:

... the character of law in the United States and the role of the Constitution and the Supreme Court;
... some of the contemporary theories used to explain Supreme Court decision-making;
... the boundaries, limitations, and powers of federal political institutions;
... the constitutional status of American federalism; and
... the changing constitutional aspects of the power of the state over economic affairs;

We will not be able to cover any of these topics in depth. Each could be (and in law school often is) the subject of a separate course on its own. Instead, I will try to illustrate how policy has developed in particular, limited areas of public law within each broad category. Our aim will be to begin to understand how legal interpretation and politics meld to produce public law in the United States.

Course Requirements
Evaluation
There will be a mid-term examination and a final examination. The final examination will not be cumulative. In addition to the examinations, each student will write be expected to write an opinion concerning a case currently before the Supreme Court. More specific information is given in the next section of this syllabus. In addition, students will be expected to brief 5 cases for the class during the semester. (By the way, it would be a good idea to brief all of the focus cases in the course; it will help greatly in understanding legal reasoning.) The briefs and
your activity in class will constitute your class participation grade, which, as you can see below, I take seriously into account in determining final grades. Grading will be weighted as follows:

- The mid-term examination: 30%
- The opinion: 25%
- The final examination: 30%
- Briefs and participation: 15%

I will not give a make-up test due to an unexcused absence. You will find me willing to accommodate your scheduling problems, within reason, but I must be informed before hand if you must miss a test. Of course, true emergencies (i.e. serious illness or family emergencies) will be addressed on a case by case basis.

Material from lectures, discussions, presentations, and the readings will be covered on your examinations. Don't assume that you aren't going to be questioned about a lecture topic isn't in the book or about part of the assigned readings that I did not cover in class.

Paper Requirements

Each student will write a medium length research (8 - 10 pages) paper for this course. This paper will be in the form of a judicial opinion - with relevant authorities and discussion - concerning a case pending before the Supreme Court. I will give you an overview of the relevant case and a guide to the necessary materials in a separate handout. You can discuss your opinions with one another, but each of you must prepare your paper individually.

The paper must be typed or printed; I will not accept handwritten work. I also require you to use the APSA Style Manual for Political Science for citations and references. (See [www.wisc.edu/writing/Handbook/DocAPSA.html](http://www.wisc.edu/writing/Handbook/DocAPSA.html) for the details. If you type in this URL, be sure to include the capital letters; it's a UNIX server and case sensitive.) Your opinion will be due on May 5 at the regular class hour. Late papers will be penalized by a full letter grade (A- to B-, etc.) for every day overdue. Start thinking about the opinion as soon as you can; do not, under any circumstances, try to put a project like this together in the last few days.

Attendance

I will be taking attendance at each class. I will allow everyone three absences. For every subsequent unexcused absence I will subtract 1 point from your final grade. Since being late to class disturbs both me and your classmates, I will charge you with an absence if you are late twice (i.e. two late appearances = 1 absence). If you are late, be sure to check with me after class to see that you were marked present! This is your responsibility and yours alone.

Class Etiquette

Reluctantly, I have concluded that I cannot allow students to use laptop computers in class unless we have an exercise involving them or the student has a study handicap that requires their use. The reason for this is simple enough; students are using their computers for checking e-mail and websurfing during class. This has an unfortunate effect on the student involved, of course, but it also invariably draws students around them into their activities. You are in class to
learn, not to check your e-mail or read blogs. Take notes and participate. Your
grade will depend on this, as you might have noticed. And turn off your cell
phones, i-Phones, and whatever else.

I have also decided that it is high time for everyone to stop eating in class. You
have time set aside for that during the day. Use it. This doesn’t apply to drinks, of
course; we all get thirsty during the day. Be sure to dispose of your bottles and
cups.

Course Structure
This course will be taught largely by a mixture of lectures, discussions, and
class presentations. I expect you to complete each reading assignment by the time
we begin the corresponding section of the syllabus. I plan to schedule regular
discussions and presentations of the focus cases; again, you would be wise to brief
these cases beforehand, whether you are on call for the day or not. The reason
for this is that it will help you begin to acquire the habits of thought and styles of
argument that characterize legal work. You won’t come out of this course
“thinking like a lawyer”; it takes law school for that. What you should have a
clearer idea of how legal questions are approached by professionals in the United
States.

Course Outline
The course will follow the outline below. I will make every effort to stick to
this schedule, but if revisions are required I will inform you before hand. If we
must reschedule any aspect of this syllabus, you and your classmates will be
consulted.

1. Law, the Constitution, and the Supreme Court (Feb 1 - 5)
   Epstein and Walker, Part 1: Introduction, Chap. 1
   Class Exercise: How To Brief a Case

2. The Powers of the Federal Government: the Judicial Branch (Feb 8 - 15)
   Epstein and Walker, Part 2: Introduction, Chap. 2

3. The Powers of the Federal Government: The Legislative Branch (Feb 17 - Feb 24)
   Epstein and Walker, Chap. 3

4. The Powers of the Federal Government: The Executive Branch (Feb 26 - Mar 8)
   Epstein and Walker, Chap. 4
5. “If men were angels ...”: Separation of Powers and the Constitutional Scheme (Mar 10 - 19)
Epstein and Walker, Chap. 5

Midterm Examination - March 22

6. The Commerce Clause, the Constitutional Revolution, and Technological Governance (Mar 24 - Apr 2)
Epstein and Walker, Chap. 7

7. Federalism(s) and Technological Governance (Apr 12 - Apr 19)
Epstein and Walker, Part 3: Introduction, Chap. 6

8. Contracts and Technological Governance (Apr 21 - 26)
Epstein and Walker, Part 4: Introduction, Chap. 9

9. The Takings Clause and Technological Governance (Apr 28 - May 3)
Epstein and Walker, Chap. 11
Focus Cases:  *Penn Central Transportation Co. v. City of New York, Lucas v. South Carolina Coastal Council, Hawaii Housing Authority v. Midkiff, Kelo v City of New London*

Opinion Due - May 5

10. Last Thoughts On Public Law (May 5)
Comprehensive Review

Final Examination - May 7 at 11:30am